IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5-9-2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.12935 of 2007

and

MP No.1 of 2007

P.Kalyani .. Petitioner

vs

1.The Joint Commissioner of Police
O/o. The Joint Commissioner of Police
(Traffic)
Chennai City, Chennai.
2.Accountant General
O/o. Accountant General
Teynampet, Chennai. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 2nd respondent to release the death cum retirement and gratuity to the petitioner herein as per the proposal sent by the 1st respondent dated 5.7.2006.

For Petitioner : Mr.M.Suresh Viswanath
For Respondents : Mr.I.Paranthaman
Additional Government
Pleader for R1

Mr.N.Vijayshankar
ACGSC for R2

ORDER

Seeking a writ of mandamus directing the second respondent to release the death cum retirement benefit and gratuity to the petitioner as per the proposal sent by the first respondent, dated 5.7.2006.

2.The Court heard the learned Counsel on either side.

3.Concededly, the petitioner's husband was in Police Service in Tamil Nadu as Head Constable. He died in the year 1996 leaving behind him two wives namely the petitioner herein and one Loganayaki, and the children. There was controversy among the wives which has culminated in O.P.No.423 of 1998 on the file of this Court, and a memorandum of compromise was filed whereby it was agreed between the parties to have the benefits of the pension arrears, future pension, death cum retirement benefit and employment on compassionate ground, etc. The said petition was decreed accordingly. Pursuant to the same, the petitioner made a representation

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to the first respondent seeking for the pension arrears and future pension benefits as per that compromise entered into between the parties and decreed by this Court. Pursuant to the representation, a proposal was forwarded by the first respondent, the Joint Commissioner of Police, Madras, to the second respondent, the Accountant General, on 5.7.2006; but, it has not yet been acted upon. Under the circumstances, this writ petition has been brought forth.

4.The learned Counsel for the petitioner would submit that there was a compromise entered into between the parties; that the compromise decree was also placed along with the representation; that the first respondent satisfied with the same and forwarded the proposal on 5.7.2006; but, the second respondent has not acted upon the same, and thus, the petitioner is struggling for the past more than a decade; that she is suffering from illness; that she has no independent income; that due to the illness, she could not eke her livelihood; and that under the circumstances, it must be acted upon immediately.

5.The learned Counsel for the first respondent would submit that a proposal was forwarded to the second respondent on 5.7.2006 itself.

6.The learned Counsel for the second respondent would submit that it is true that a proposal was forwarded; but, certain mistakes were noted; that under the circumstances, it was returned to the first respondent for rectification and sending it back, and now, it is yet to be done; and that if it is in order, there is no impediment for the second respondent to act on the same and pass suitable orders.

7.After hearing the learned Counsel on either side, this Court is of the considered opinion that in the instant case, though a representation was made by the petitioner annexing the copy of the compromise entered into between herself and the other wife of the deceased Head Clerk, and a proposal was forwarded on 5.7.2006, the second respondent could not act upon the same since it was not in form, and hence, it has been returned. Under the circumstances, a direction could be issued to the first respondent to forward the proposal to the second respondent in its correct form within a period of four weeks herefrom. Accordingly, a direction is issued. On being placed so, the second respondent is directed to act upon the same and pass suitable orders within a period of eight weeks therefrom. Considering the circumstances, this Court is of the viewthat any more delay that may be caused, cannot be appreciated.

8.In the result, this writ petition is, accordingly, disposed of. No costs. Consequently, connected MP is closed.

sd/-
Asst.Registrar

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Sub Asst.Registrar

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nsv/

To:

1.The Joint Commissioner of Police
O/o. The Joint Commissioner of Police
(Traffic)
Chennai City, Chennai.

2.The Accountant General
O/o. Accountant General
Teynampet, Chennai.

+ 1 cc to Mr.M.suresh viswanath Advocate SR.NO.55282
+ 1 cc to Mr.V.Vijay Shankar Advocate SR.NO.55651
+ 1 cc to Govt.pleader SR.NO .55559

PV(CO)
rd 12.9.07

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